

NO. _____

IN THE COURT OF CRIMINAL APPEALS
OF TEXAS

FILED
COURT OF CRIMINAL APPEALS
4/18/2019
DEANA WILLIAMSON, CLERK

THE STATE OF TEXAS,
PETITIONER,
V.
CHASE ERICK WHEELER,
RESPONDENT.

*Petitioned from the Second Court of Appeals at Fort Worth, Texas
in Cause No. 02-18-00197-CR*

**UNOPPOSED MOTION FOR EXTENSION OF TIME
TO FILE STATE'S PETITION FOR DISCRETIONARY REVIEW**

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TO THE HONORABLE COURT OF APPEALS:

Pursuant to Texas Rules of Appellate Procedure 10.5(b) and 68.2(c), the State files this Unopposed Motion for Extension of Time to File State's Petition for Discretionary Review ("Motion") and in support thereof would show as follows:

I. Background

The trial court is County Criminal Court No. 3 of Tarrant County, Texas, the Hon. Bob McCoy, presiding. The style of the case in the trial court is *State v. Chase Erick Wheeler*. The trial court cause number is No. 1473192.

Respondent pleaded guilty to driving while intoxicated and was sentenced to 90 days in jail probated for 12 months under community supervision. [CR 33-34]. Respondent is not currently incarcerated.

Respondent timely filed his notice of appeal in the Second Court of Appeals on April 27, 2018, contesting the trial court's denial of his motion to suppress. [CR 114]. On March 21, 2019, Justice Gabriel, writing the opinion for the panel in the Court of Appeals for the Second District of Texas, reversed and remanded the trial court's order denying the motion to suppress. *Wheeler v. State*, -- S.W.3d --, No. 02-18-00197-CR, 2019 WL 1285328 (Tex. App.—Fort Worth Mar. 21, 2019). The State did not file a motion for rehearing or en banc reconsideration.

II. Due Date

The State's Petition for Discretionary Review is currently due April 22, 2019. The State seeks an additional 15 days to file its petition until May 7, 2019. No previous extension of time has been sought.

III. Reason for Extension of Time

Counsel is actively involved in other pending matters that conflict or potentially conflict with the current briefing deadline, including:

- Motion for En Banc Reconsideration in *Maxion v. State*, No. 02-18-00176-CR, 2019 WL 1495048, at * 2 (Tex. App.—Fort Worth Apr. 4, 2019, no pet. h.), due on April 22, 2019;
- Briefing in *Hestad v. State*, Cause No. 07-18-00371-CR, in the Court of Appeals for the Second District of Texas, due on May 5, 2019; and
- Counsel's pre-existing vacation plans from April 19-22, 2019.

IV. Extension Sought in the Interest of Justice

This extension is not sought for the purpose of delay, but rather is sought in the interest of justice and judicial economy. Granting the Motion will not significantly delay submission of the cause.

V. Prayer

WHEREFORE, PREMISES CONSIDERED, the State requests the Court grant the Motion and extend the time to file the State's Brief by fifteen (15) days until May 7, 2019.

Respectfully submitted,

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Tarrant County, Texas

JOSEPH W. SPENCE
Assistant Criminal District Attorney
Chief, Post-Conviction

/s/ SHELBY J. WHITE
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CERTIFICATE OF CONFERENCE

On April 17, 2019, the undersigned counsel conferred with Stephanie Gonzales who has indicated that she does not oppose the Motion.

/s/ SHELBY J. WHITE
SHELBY J. WHITE

CERTIFICATE OF SERVICE

A true copy of this Motion has been e-served to opposing counsel, Stephanie Gonzales, gonzaleslawdfw@gmail.com, this, the 18th day of April, 2019.

/s/ SHELBY J. WHITE
SHELBY J. WHITE